



CITY OF LA VISTA
BOARD OF ADJUSTMENT

STAFF REPORT

VARIANCE REQUEST
AOI BUILDING EXPANSION SETBACK

DATE OF BOA MEETING:

September 23, 2014

SUBJECT:

Variance to the I-1 Light Industrial Zone setbacks of the La Vista Zoning Ordinance

PROPERTY INFORMATION

APPLICANT:

J & M Holdings LLC
Applying for: AOI Corp.
8801 South 137th Circle
Omaha, NE 68138

PROPERTY OWNER:

J & M Holdings LLC
8801 South 137th Circle
Omaha, NE 68138

SUBJECT PROPERTY:

Lot 1 I-80 Industrial Park Replat 1
Sarpy County, Nebraska

ZONING:

I-1, Light Industrial

DEFINITIONS

(from Section 2 of Zoning Ordinance)

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- 2.02.269** **SETBACK, REAR YARD OR SIDE YARD** shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, offset by the perpendicular distance prescribed for the yard in the district. **(Ordinance No. 1083, 2-17-09)**
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BACKGROUND

Description of Request:

1. AOI Corporation is an industrial business located on South 137th Circle, south of Giles Road that provides construction and interior finishing services.
2. The request is to allow AOI Corporation to expand their existing facility. The existing building is approximately 28,000 square feet in size and was constructed in 1996. The request is to add approximately 19,590 square feet of space to the existing structure.
3. According to the applicant's application, the "request for variance is for the waiver of the required 30' sideyard setback at the north property line to 5 feet. The hardships of this site are its irregular shape and the steepness of the topography located at the south and east sides of the site." The applicant contends that the "authorization of variance will not be detrimental to adjacent properties and would not alter the character".
4. The property lies within the I-1 Light Industrial District, which requires a 30' side yard setback as follows:

Applicable Zoning Regulations:

Section 5.13 I-1 Light Industrial.

5.13.01 Intent: *It is the intent of the Light Industrial District Regulations to provide for limited industrial uses and services, including some retail businesses, wholesaling, and storage activities; to preserve land for the expansion of basic economic activities; to avoid incompatible land uses, to serve these areas with adequate transportation facilities, and to prevent or mitigate hazards to adjacent properties. (Ordinance No. 1053, 1-15-08)*

5.13.02 Permitted Uses: *(Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted)*

- 5.13.02.01 *Light Manufacturing*
- 5.13.02.02 *Automotive services, except repair, towing and wrecking*
- 5.13.02.03 *Business services*
- 5.13.02.04 *Facilities for building construction contractors*
- 5.13.02.05 *Landscape and horticultural services*
- 5.13.02.06 *Medical and dental laboratories*
- 5.13.02.07 *Assembly of electrical and electronic appliances*
- 5.13.02.08 *Miscellaneous repair services, not including automotive*
- 5.13.02.09 *Printing, publishing, and allied industries*
- 5.13.02.10 *Electric, gas and sanitary services, not including collection and disposal of solid waste or hazardous waste*
- 5.13.02.11 *General warehousing self-service storage facility*
- 5.13.02.12 *Testing laboratories*
- 5.13.02.13 *Publicly owned and operated facilities (Ordinance No. 950, 3-1-05)*
- 5.13.02.14 *Special and vocational training facilities (Ordinance No. 950, 3-1-05)*
- 5.13.02.15 *Wholesale trade of goods*

5.13.03 Permitted Conditional Uses: *(Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted)*

- 5.13.03.01 *Animal specialty services*
- 5.13.03.02 *Automotive rental / leasing and other heavy equipment rental*
- 5.13.03.03 *Household furniture, furnishings, and equipment store*
- 5.13.03.04 *Hardware, lawn and garden supply store*
- 5.13.03.05 *Lumber and other building materials dealer*
- 5.13.03.06 *Outdoor display of merchandise*
- 5.13.03.07 *Radio, television and communication towers and transmitters, as per Section 7.11*
- 5.13.03.08 *Utility substations, terminal facilities, and reservoirs*
- 5.13.03.09 *Farm-implement sales and service*
- 5.13.03.10 *Cabinetry millwork*
- 5.13.03.11 *Gasoline service stations*
- 5.13.03.12 *Automotive repair services*
- 5.13.03.13 *Sale of recreational vehicles, including boats and jet skis*
- 5.13.03.14 *Indoor recreational facility (Ordinance No. 918, 10-6-03)*
- 5.13.03.15 *Veterinary Services, not including livestock*
- 5.13.03.16 *Self-service storage facility (Ordinance No. 1069, 8-19-08)*

5.13.04 Permitted Accessory Uses

- 5.13.04.01 Buildings and uses customarily incidental to the permitted uses
- 5.13.04.02 Parking as permitted in Section 7.05 through 7.09
- 5.13.04.03 Signs allowed in Section 7.01 through 7.04
- 5.13.04.04 Temporary buildings and uses incidental to construction work that will be removed upon completion or abandonment of the construction work
- 5.13.04.05 Landscaping as required by Section 7.17

5.13.05 Height and Lot Requirements:

5.13.05.01 The height and minimum lot requirements shall be as follows:

Use	Lot Area (SF) ²	Lot Width ²	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	100	35' ¹	30'	25'	45'	65%
Permitted Conditional Uses	10,000	100	35' ¹	30'	25'	45'	65%

¹ 35' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of sixty (60) feet.

² Lots created before January 1, 2008 may have a minimum Lot Area of 10,000 square feet and may have less than the minimum 100 feet lot width. (Ordinance No. 1053, 1-15-08)

5.13.06 Use Limitations:

- 5.13.06.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within *thirty (30)* feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.17.04. (**Ordinance No. 1053, 1-15-08**)
- 5.13.06.02 No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- 5.13.06.03 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
- 5.13.06.04 *No use shall produce a nuisance or hazard from fire, explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent, or electrical interference which may affect or impair the normal use and peaceful enjoyment of any surrounding property, structure, or dwelling. (Ordinance No. 1053, 1-15-08)*

5.13.07 Performance Standards:

See Section 7.16 of the Supplemental Regulations.

CONDITIONS FOR VARIANCES

Section 8.03.03.01 and Nebraska Revised State Statutes Section 19-910:

The Board of Adjustment shall authorize no such variance, unless it finds that:

1. The strict application of the Ordinance would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
4. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

Bylaws and Rules of Procedure of the City Of La Vista Board of Adjustment – Section 7, Specific Requirements in Approval of a Variance:

In any action by the Board with regard to approval of a variance, such action shall be taken in accordance with the limitations of Nebraska law and the requirements and limitations of the applicable City Zoning Regulations and these Rules of Procedure. In any action to approve a variance, the Board shall make findings which shall be recorded in the minutes of the Board that:

A. The strict application of any applicable provision of the applicable City Zoning Regulation would, in each specific variance petition, result in at least one of the following:

1. Peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to exceptional narrowness, shallowness or shape of the piece of property in questions;

Staff Analysis: The lot is of similar size and shape of other I-1 Light Industrial lots in the vicinity.

Resulting Hardship: Yes / No

2. Peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to exception topographic conditions on the piece of property in questions;

Staff Analysis: The lot slopes downward from south to north, dropping a total of approximately four to six feet from the southern edge to the northern edge of the property. The slope along the eastern lot line increases towards the southeast corner of the lot, with an overall increase of approximately 12 feet from the height of the building pad. This is relatively similar to the topography of other lots in this subdivision.

Resulting Hardship: Yes / No

3. Peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to other extraordinary and exceptional situation or condition of the piece of property in question.

Staff Analysis: The lot is of similar size and shape of other I-1 Light Industrial lots in the vicinity. There are no peculiar and exceptional aspects of this lot that prohibit the development of the remainder of the buildable area of the lot.

Resulting Hardship: Yes / No

B. In authorizing any variance the Board shall also make findings, which shall be recorded in the minutes of the Board, that **EACH** of the following requirements for authorizing a variance can be met:

1. Such variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the applicable City Zoning Regulations;

Staff Analysis: The applicant would need to obtain an ingress/egress easement from the property owner to the north to allow for emergency vehicle access to the northeast portion of the building as the building as proposed would not meet Section 91.33(A)(1) of the City Code, as there would not be enough room for a fire lane on the subject lot to reach the northeast portion of the building.

Specific requirement: satisfied / not satisfied

2. The strict application of the requirements of the City Zoning Regulations would produce an undue hardship upon the owner of the property included in the petition;

Staff Analysis: A GIS analysis of the remaining buildable area of the lot in its current configuration is roughly figured at 71,570 square feet, based on the current setbacks set forth with the Zoning Ordinance.

Specific requirement: satisfied / not satisfied

3. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

Staff Analysis: Other I-1 Light Industrial lots in the vicinity were similarly sized and shaped. The applicant has noted three other buildings in the same subdivision that do not conform to the setbacks of the I-1 District. These three buildings were constructed when the subdivision was under Sarpy County's jurisdiction. Due to that fact, we do not have access to the original building file for those properties. Upon consultation with the Sarpy County Planning Department, staff was informed that the properties were under Sarpy's IL (Light Industrial District) zoning district. The side yard setbacks, at the time of application, appear to have been 0 feet according to the Planning Department.

Specific requirement: satisfied / not satisfied

4. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by such variance;

Staff Analysis: Staff does not believe substantial detriment would occur on adjacent properties or within the zoning district.

Specific requirement: satisfied / not satisfied

5. The authorization of a variance is based upon reasons of demonstrable and exceptional hardship stemming from characteristics of the property involved in the petition and not for reasons of convenience, profit or desire of the property owner;

Staff Analysis: The variance request is related to the applicant's desire to expand their building to accommodate growth.

Specific requirement: satisfied / not satisfied

6. The condition or situation of the property included in such petition or the intended use of such property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the applicable City Zoning Regulations.

Staff Analysis: Staff does not believe an amendment to the zoning regulations for the reasons cited within the application of irregular shape and steepness of topography is necessary.

Specific requirement: satisfied / not satisfied

DECISION

Move to approve the variance request, as proposed and presented to the City of La Vista Board of Adjustment, finding that at least one hardship has been created by the strict application of the Zoning Ordinance and finding that each specific requirement has been satisfied.

Seconded: _____

Vote: Ayes_____ Nays_____

If motion to approve fails:

Move to deny the variance request, as proposed and presented to the City of La Vista Board of Adjustment based on the following reasons for denial:

Vote: Ayes_____ Nays_____

BOARD OF ADJUSTMENT AND

BOARD OF APPEALS APPLICATION

CITY OF LA VISTA

8116 PARK VIEW BLVD., LA VISTA, NE 68128

402-331-4343

A. General Information

1. APPLICANT

Name: BRYAN R. ZIMMER AIA Contact: _____
Address: 4610 DOBBIE ST.
City/State/Zip: OMAHA NE 68132
Phone/Fax: 402-551-3400 / 402-551-8331
Email address: bzimmer@thearchitecturaloffices.com

2. PROPERTY OWNER (if not the same as applicant above):

Name: J & M HOLDINGS LLC Contact: MICK JENSEN
Address: 8801 SOUTH 137th CIRCLE
City/State/Zip: OMAHA NE 68138
Phone/Fax: 402-896-5520 / 402-896-9445
Email address: mjensen@aolcorp.com

3.

PRIMARY PROJECT CONTRACT (applicant, representative, or other):

Name: BRYAN R. ZIMMER AIA Contact: _____
Address: 4610 DOBBIE ST.
City/State/Zip: OMAHA, NE 68132
Phone/Fax: 402-551-3400 / 402-551-8331
Email address: bzimmer@thearchitecturaloffices.com

4.

CERTIFICATION:

An application may be filed only by the owner(s) of the property or by a person with the written permission of the owner authorizing the application, or by an attorney representing the owner.

Indicate your authority.

 I (We) (am) (are) the sole owner(s) of the property.

 X I have the written permission of the property owner(s) authorizing the application and a copy of the authorization is attached.

 I am an attorney representing the owner(s).

Signature Bryan R. Zimmer Print Name BRYAN R. ZIMMER Address 4610 DOBBIE ST. OMAHA, NE 68132

La Vista Board of Adjustment

Section 8.03 Powers and Jurisdiction on Appeal

The Board of Adjustment shall have the following powers:

- 8.03.01 To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
- 8.03.02 to hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by this Ordinance to pass; and
- 8.03.03 To grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.
- 8.03.03.01 The Board of Adjustment shall authorize no such variance, unless it finds that:
1. The strict application of the Ordinance would produce undue hardship;
 2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
 3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
 4. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

The applicant or representative must be present at the scheduled hearing to answer any questions or present required information to the Board. It is the Board's policy to postpone the case when the applicant or representative fails to appear at the scheduled hearing; however, the Board is not required to postpone the application and may postpone, approve or disapprove the application with or without the applicant or representative's presence. If the applicant or representative is unable to attend the hearing, they may request a postponement of the application prior to the meeting.

B. Project Information:

- Project Location: 1/4 24 Section 24, T14N, R31E, Sary County, Nebraska
- General Location: 137th Circle, 61/2 61/2 61/2
- Project/Property Address (if known): 8801 SOUTH 137th Circle, Omaha, NE 68138
- Area: 3.12 ACRES (acres)
- Existing Use of the Property: LIGHT INDUSTRIAL, OFFICE
- Variance Request: Section 5.13.05.01 Zoning Ordinance

Details of Request: REQUEST FOR VARIANCE IS FOR THE WAIVER OF THE REQUIRED 30' SIDEYARD SETBACK AT NORTH PROPERTY LINE TO 5'. THE HARDSHIPS OF THIS SITE ARE ITS IRREGULAR SHAPE AND THE STEEPNESS OF THE TOPOGRAPHY LOCATED AT THE SOUTH AND EAST SIDES OF THE SITE. THE AUTHORIZATION OF VARIANCE WILL NOT BE DETRIMENTAL TO ADJACENT PROPERTIES AND WOULD NOT ALTER THE CHARACTER

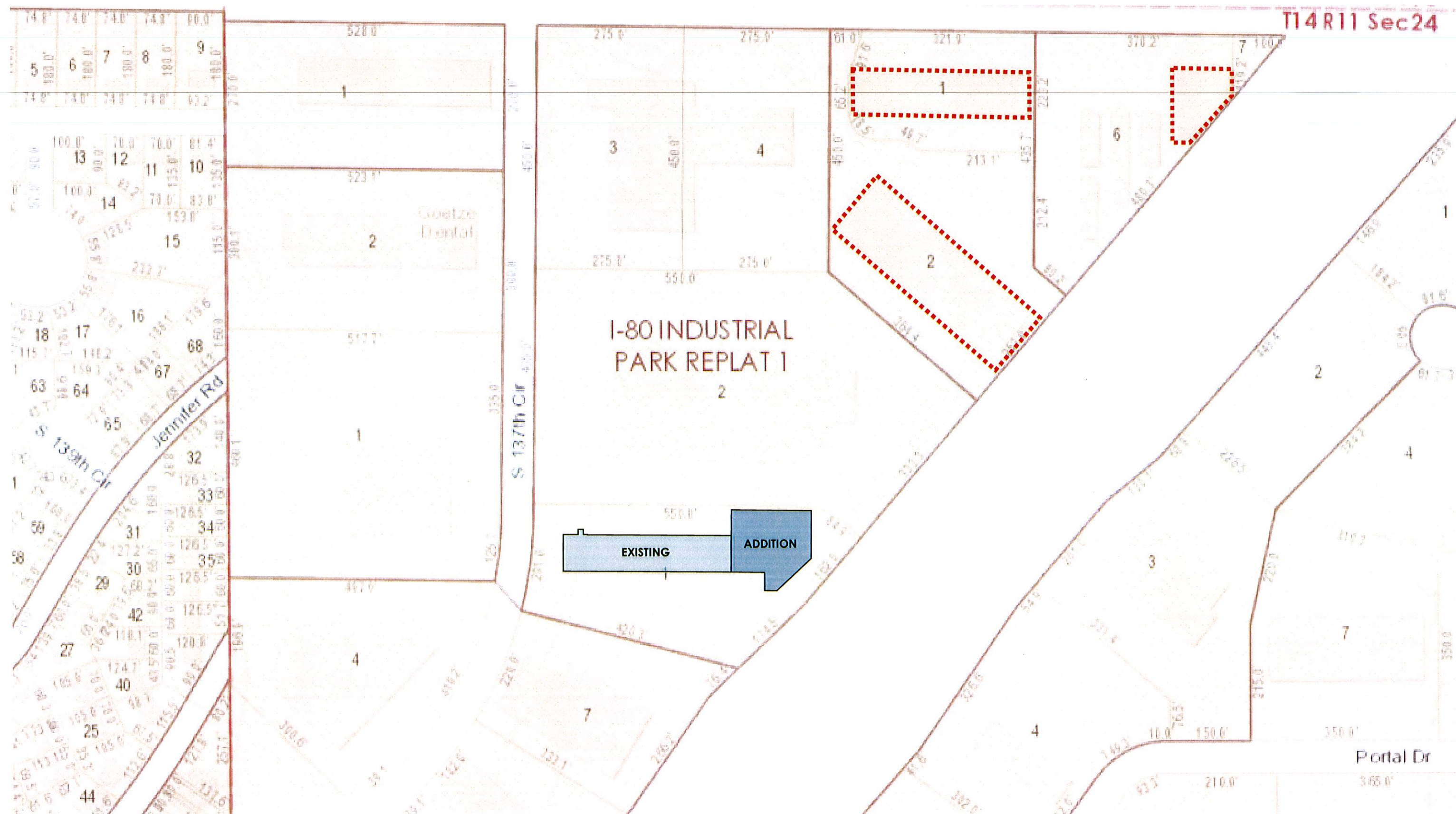
Note: The Board of Adjustment does not have unlimited discretion in deciding whether or not to grant a variance. The Board must follow Section 8 of the La Vista Zoning Ordinance in their deliberations (see attachment).

C. Additional Submittal Requirements:

- Attach list of Property Owners located with 300 feet of proposed project. (Must be prepared by a title company and in label-ready format).
- The application fee will also be required at the time of submission.

Submit one original and ten copies of the following:

1. Board of Adjustment/Board of Appeals Application Form.
2. Legal Description of Property and Surveyor's Certificate.
3. Site Plan and/or other documents that illustrate this request.
4. For Public Hearing Presentation, overhead transparencies or other approved form of projected illustrations identical to any display boards being used are required to be provided at time of submittal.



19,590 SF Addition with Proposed 5' Setback

August 14, 2014

Proposed Site Plan

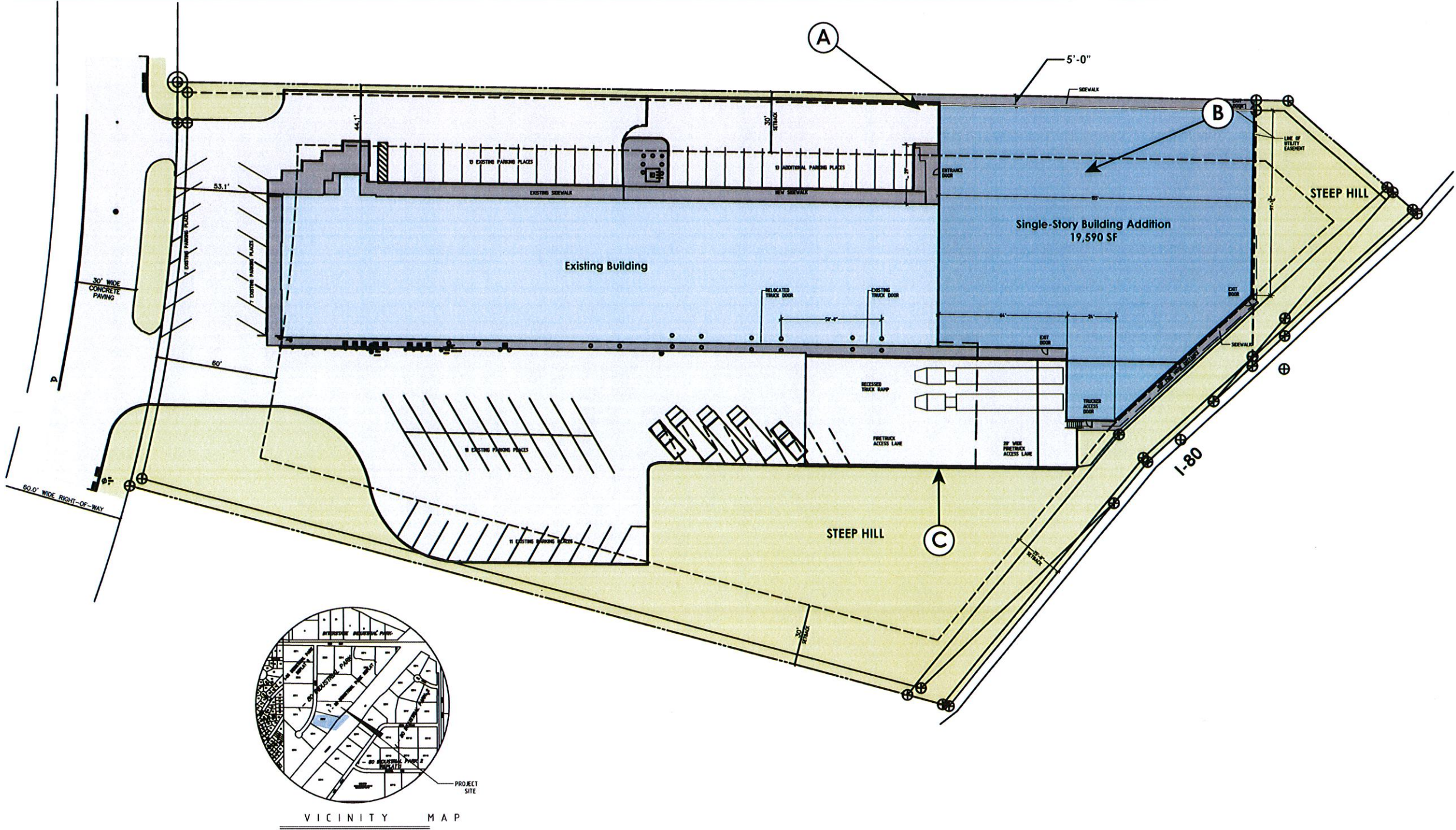
Site Area: 135,800 SF
Zoning: I-1, Light Industrial
Bldg. Coverage (Max 65%): 88,270 SF

Building Area

Existing Main Level: 22,750 SF
Existing Upper Level: 5,250 SF
New Addition: 19,590 SF
Total Main Level (Bldg. Coverage) SF: 42,340 SF
Total Building Area: 47,590 SF

Parking Requirements

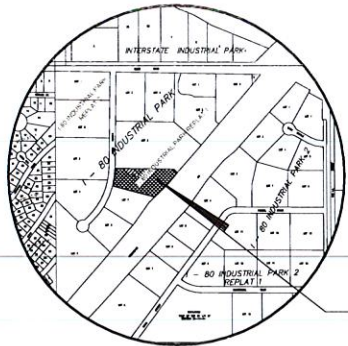
(Based on 10,580 SF Office | 34,000 SF Warehouse)
Code Required Stalls: 68
Existing Stalls to Remain: 47
New Stalls: 21
Total Stalls Provided: 68











VICINITY MAP

LEGAL DESCRIPTION

LOT 1, I-80 INDUSTRIAL PARK REPLAT 1, A SUBDIVISION, AS SURVEYED, PLATED AND RECORDED IN SARPY COUNTY, NEBRASKA, EXCEPT THAT PART DEEDED TO THE STATE OF NEBRASKA IN INSTRUMENT NUMBER 2000-11473 DESCRIBED AS FOLLOWS: A TRACT OF LAND LOCATED IN LOT 1, I-80 INDUSTRIAL PARK REPLAT 1, BEING A REPLATING OF LOTS 8-12, I-80 INDUSTRIAL PARK, BEING A PLATED PART OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 14 NORTH, RANGE 11 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: REFERRING TO THE NORTHEAST CORNER OF SAID QUARTER SECTION;

THENCE WESTERLY A DISTANCE OF 188.27 METERS (617.68 FEET) ALONG THE NORTH LINE OF SAID QUARTER SECTION TO A POINT ON THE NORTHERLY EXISTING INTERSTATE 80 RIGHT OF WAY LINE;

THENCE SOUTHWESTERLY DEFLECTING 049°55'29" LEFT, A DISTANCE OF 394.80 METERS (1295.26 FEET) ALONG SAID RIGHT OF WAY LINE TO THE POINT OF BEGINNING;

THENCE SOUTHWESTERLY DEFLECTING 000°00'00" A DISTANCE OF 49.38 METERS (162.01 FEET) ALONG SAID RIGHT OF WAY LINE;

THENCE SOUTHWESTERLY DEFLECTING 005°42'34" RIGHT, A DISTANCE OF 53.19 METERS (174.51 FEET) ALONG SAID RIGHT OF WAY LINE TO A POINT ON THE SOUTH LINE OF THE PROPERTY OWNED BY THE GRANTOR(S);

THENCE NORTHEASTERLY DEFLECTING 172°53'20" RIGHT, A DISTANCE OF 47.40 METERS (155.50 FEET);

THENCE NORTHEASTERLY DEFLECTING 008°06'01" RIGHT, A DISTANCE OF 55.30 METERS (181.44 FEET) TO THE POINT OF BEGINNING CONTAINING 315.32 SQUARE METERS (3394.09 SQUARE FEET), MORE OR LESS.

NOTES:

1. PHYSICAL ITEMS DESCRIBED IN THE LEGEND ARE NOT DRAWN TO SCALE FOR THE SAKE OF CLARITY AND ARE SUBJECT TO ANY SUBSEQUENT INACCURACIES.
2. THE PROPERTY LIES WITHIN A DESIGNATED ZONE "X" (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) PER THE SARPY COUNTY, NEBRASKA AND INCORPORATED AREAS FLOOD INSURANCE RATE MAP NUMBER 31153C00506 DATED DECEMBER 2, 2005.
3. THE PROPERTY CONTAINS 135,800 SQUARE FEET OR 3.12 ACRES MORE OR LESS.
4. THE PROPERTY IS ZONED I-1, (LIGHT INDUSTRIAL DISTRICT) PER THE SARPY COUNTY GIS WEBSITE (<http://www.sarpy.com/oldterra/gisviewer/default/>). THIS ZONING HAS THE FOLLOWING MINIMUM REQUIREMENTS:
FRONT YARD 60 FEET, SIDE YARD 30 FEET, REAR YARD 25 FEET.
THE BUILDING WAS CONSTRUCTED PRIOR TO BEING SUBJECT TO CITY OF LAVISTA ZONING REQUIREMENTS AND IS NOW CONSIDERED TO BE A "LEGAL NON-CONFORMING USE" PER MARCUS BAKER WITH THE CITY OF LAVISTA PLANNING DEPARTMENT.
5. THE BUILDING CONTAINS 22,918 SQUARE FEET. THIS AREA WAS CALCULATED USING EXTERIOR BUILDING DIMENSIONS MEASURED AT GROUND LEVEL.
6. THERE ARE 55 STANDARD PARKING SPACES AND ONE HANDICAPPED PARKING SPACE ON THE PROPERTY.
7. THE DRAWING SHOWS OR NOTES THE EASEMENTS LISTED UNDER SCHEDULE B OF OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY COMMITMENT FOR TITLE INSURANCE NUMBER 09049224, EFFECTIVE DATE APRIL 13, 2009 AT 08:00 A.M. ITEM LETTERS SHOWN HEREON REFER TO THIS COMMITMENT. BOOK AND PAGE NUMBERS AND INSTRUMENT NUMBERS SHOWN HEREON REFER TO DOCUMENTS IN THE OFFICE OF THE SARPY COUNTY REGISTER OF DEEDS.

A. ITEM K
THE PROPERTY LIES WITHIN SANITARY AND IMPROVEMENT DISTRICT NUMBER 163 OF SARPY COUNTY, NEBRASKA.

B. ITEM M
ALL OF LOT 1, I-80 INDUSTRIAL PARK REPLAT 1 LIES WITHIN THE "EASEMENT" GRANTED TO THE STATE OF NEBRASKA USED FOR THE CONTROL OF OUTDOOR ADVERTISING RECORDED IN BOOK 32 AT PAGE 23.

C. ITEMS Q, R & S
THE PROPERTY IS SUBJECT TO THE "RESTRICTIVE COVENANTS" RECORDED AS INSTRUMENT NUMBER 93-26648 AND THE "AMENDMENT TO RESTRICTIVE COVENANTS" RECORDED AS INSTRUMENT NUMBER 94-04733 AND THE "AMENDMENTS TO RESTRICTIVE COVENANTS" RECORDED AS INSTRUMENT NUMBER 95-17697.

CERTIFICATION

TO: MUTUAL OF OMAHA BANK, A FEDERALLY CHARTERED SAVINGS BANK, ITS SUCCESSORS AND/OR ASSIGNS AS THEIR RESPECTIVE INTERESTS MAY APPEAR.

J & M HOLDINGS, L.L.C., A NEBRASKA LIMITED LIABILITY COMPANY,
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY AND
MIDWEST TITLE COMPANY,

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS", JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS IN 2005 AND INCLUDES ITEMS 1, 2, 3, 4, THAT PART OF 6 PERTAINING TO REQUIRED SETBACKS, 7(A), 7(B), 8, 9, 10 AND 11(A) OF TABLE "A" THEREOF. PURSUANT TO THE ACCURACY STANDARDS AS ADOPTED BY ALTA AND NSPS AND IN EFFECT ON THE DATE OF THIS CERTIFICATION, UNDERSIGNED FURTHER CERTIFIES THAT IN MY PROFESSIONAL OPINION, AS A LAND SURVEYOR REGISTERED IN THE STATE OF NEBRASKA, THE RELATIVE POSITIONAL ACCURACY OF THIS SURVEY DOES NOT EXCEED THAT WHICH IS SPECIFIED THEREIN.



MAY 5, 2009
DATE:

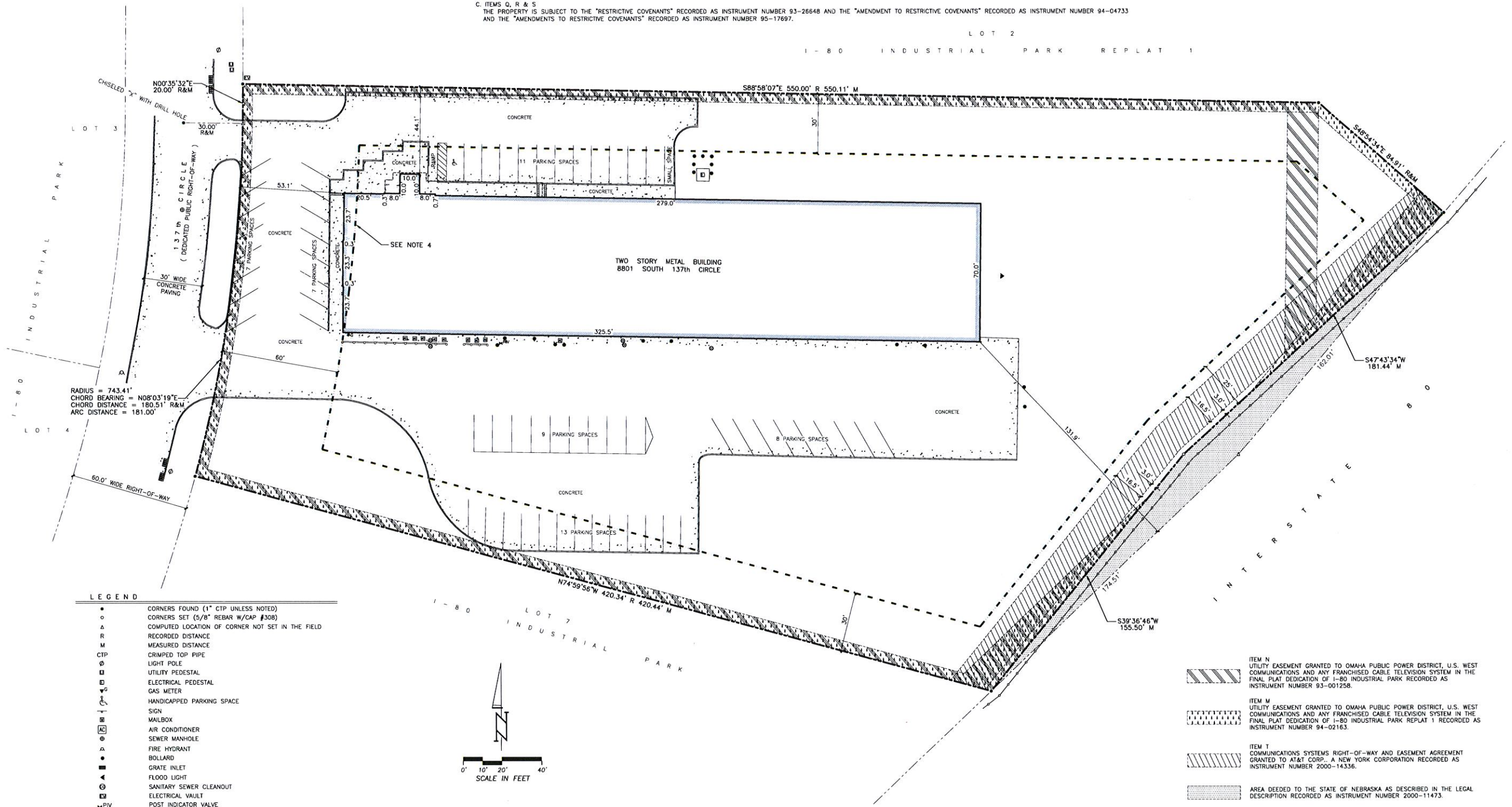
ALTA/ACSM LAND TITLE SURVEY

MUTUAL OF OMAHA BANK

THOMPSON, DRESSEN & DORNER, INC.
Consulting Engineers & Land Surveyors
10836 OLD MILL ROAD OMAHA, NEBRASKA 68154
P: 402.330.8860 F: 402.330.5866 WWW.TD2CO.COM

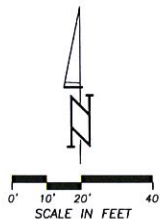


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LEGEND

- | | |
|-----|--|
| • | CORNERS FOUND (1" CTP UNLESS NOTED) |
| ○ | CORNERS SET (5/8" REBAR W/CAP #308) |
| △ | COMPUTED LOCATION OF CORNER NOT SET IN THE FIELD |
| R | RECORDED DISTANCE |
| M | MEASURED DISTANCE |
| CTP | CRIMPED TOP PIPE |
| ○ | LIGHT POLE |
| □ | UTILITY PEDESTAL |
| □ | ELECTRICAL PEDESTAL |
| ○ | GAS METER |
| ○ | HANDICAPPED PARKING SPACE |
| ○ | SIGN |
| ○ | MAILBOX |
| ○ | AIR CONDITIONER |
| ○ | SEWER MANHOLE |
| ○ | FIRE HYDRANT |
| ○ | BOLLARD |
| ○ | GRATE INLET |
| ○ | FLOOD LIGHT |
| ○ | SANITARY SEWER CLEANOUT |
| ○ | ELECTRICAL VAULT |
| ○ | POST INDICATOR VALVE |
| ○ | REQUIRED SETBACK LINE |



- ITEM N
UTILITY EASEMENT GRANTED TO OMAHA PUBLIC POWER DISTRICT, U.S. WEST COMMUNICATIONS AND ANY FRANCHISED CABLE TELEVISION SYSTEM IN THE FINAL PLAT DEDICATION OF I-80 INDUSTRIAL PARK RECORDED AS INSTRUMENT NUMBER 93-001258.
- ITEM W
UTILITY EASEMENT GRANTED TO OMAHA PUBLIC POWER DISTRICT, U.S. WEST COMMUNICATIONS AND ANY FRANCHISED CABLE TELEVISION SYSTEM IN THE FINAL PLAT DEDICATION OF I-80 INDUSTRIAL PARK REPLAT 1 RECORDED AS INSTRUMENT NUMBER 94-02163.
- ITEM T
COMMUNICATIONS SYSTEMS RIGHT-OF-WAY AND EASEMENT AGREEMENT GRANTED TO AT&T CORP., A NEW YORK CORPORATION RECORDED AS INSTRUMENT NUMBER 2000-14336.
- AREA DEEDED TO THE STATE OF NEBRASKA AS DESCRIBED IN THE LEGAL DESCRIPTION RECORDED AS INSTRUMENT NUMBER 2000-11473.